

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BELINDA MCCLELLAN,

Plaintiff,

v.

MICHAEL HINOJOSA,

Defendant.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 3:10-CV-1089-B

MEMORANDUM OPINION & ORDER

In its Order Accepting the Findings, Conclusions, and Recommendation of the United States Magistrate Judge (doc. 15), filed March 28, 2011, the Court gave Plaintiff leave to replead her claims against Defendant by April 22, 2011. To date, Plaintiff has failed to do so. Defendant has now filed a Motion for Entry of Final Judgment (doc. 16), seeking dismissal of this case with prejudice and entry of a final judgment.


A federal district court may dismiss an action when a plaintiff fails to either prosecute her claims or comply with a court order. FED. R. CIV. P. 41(b); *Larson v. Scott*, 157 F.3d 1030, 1031 (5th Cir. 1998). Because Plaintiffs have failed to file an amended complaint in accordance with the Court's March 28th Order, the Court hereby **DISMISSES** the case. However, out of an abundance of caution, the Court will afford Plaintiff one final opportunity to file an amended complaint, and thus this dismissal is **without prejudice**.

On or before June 10, 2011, Plaintiff must either show cause why she has not complied with the Court's order or seek leave of Court to file an amended complaint. If Plaintiff fails to do so, the Court will deem her silence as both intentionally dilatory and an admission that she no longer seeks

to prosecute her claim, and will dismiss the case **with prejudice**. See *Bryson v. United States*, 553 U.S. 402, 403-04 (5th Cir. 2008) (citing *Callip v. Harris Cnty. Child Welfare Dept.*, 757 F.2d 1513, 1519 (5th Cir. 1985)). Accordingly, Defendant's Motion for Entry of Final Judgment is **HELD IN ABEYANCE** until after the June 10, 2011 deadline has passed.

SO ORDERED.

DATED May 12, 2011



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE